

Attachment 3 - Boilerplate Contract

THIS AGREEMENT, made as of <DATE> (the "Effective Date"), by and between HEALTH RESEARCH, INC., a not for profit corporation organized and existing under the laws of the State of New York, with principal offices located at Riverview Center, 150 Broadway, Ste. 280, Menands, NY 12204, hereinafter referred to as **HRI**, and <VENDOR>, located at <ADDRESS>, herein after referred to as the **CONSULTANT**.

WHEREAS, HRI has been awarded a grant from <SPONSOR> for the conduct of a project entitled "<PROJECT>"; and, **WHEREAS**, funding for the project, in whole or in part, is provided under a federal government grant or contract; and, **WHEREAS**, HRI desires the Consultant's performance of certain services for HRI in connection with such project; and,

WHEREAS, Consultant has represented to HRI that "he/she/it" is competent, willing and able to perform such services for HRI.

NOW THEREFORE, in consideration of the promises, mutual covenants, and agreements contained herein, it is mutually agreed by and between the respective parties as follows:

1. Consultant agrees to perform, as an independent contractor and not as an employee or agent of HRI, all the services set forth in Exhibit "A", appended hereto and made a part hereof, to the satisfaction of HRI's Principal Investigator, <PI NAME>.
2. The Agreement shall be effective and allowable costs may be incurred by the Consultant from the Effective Date and shall continue until <END DATE> (the "Term") unless terminated sooner as hereinafter provided or extended by written agreement of the parties.
3. In full and complete consideration of Consultant's performance hereunder, HRI agrees to compensate Consultant pursuant to the breakdown in Exhibit "A" attached. Final invoices are due within 60 days of the termination date of this Agreement. Requests received after this 60-day period may not be honored. Any reimbursement payable hereunder by HRI to the Consultant shall be subject to retroactive reductions and/or repayment for amounts included therein which are identified by HRI, on the basis of any review or audit, to not constitute an allowable cost or charge hereunder.
4. The Scope of Work and Budget in Exhibit "A" may be modified as conditions warrant by mutual agreement between HRI and Consultant, and confirmed in writing. In no event shall the total consideration under this Agreement exceed «Total Contract Amount Typed Out» Dollars (CONTRACT AMOUNT).
5. Consultant acknowledges and agrees that all work products, deliverables, designs, writings, inventions, discoveries, and related materials, (collectively "Works") made, produced or delivered by Consultant in the performance of its obligations hereunder will be owned exclusively by HRI. All copyrightable Works are "works made for hire". Consultant will assign, and hereby assigns and transfers, to HRI all intellectual property rights in and to Works, including without limitation, copyrights, patent rights, trademark rights, and trade secret rights. Consultant further agrees that "he/she/it" shall not claim or assert any proprietary interest in any of the data or materials required to be produced or delivered by Consultant in the performance of its obligation hereunder. Consultant warrants that all Works shall be original except for such portion from copyrighted works as may be

included with Consultant's advance permission of the copyright owner(s) thereof, that it shall contain no libelous or unlawful statements or materials, and will not infringe upon any copyright, trademark or patent, statutory or other proprietary rights of others. Consultant further agrees that "he/she/it" will not publish, permit to be published, or distribute for public consumption, any information, oral or written, concerning the results or conclusions made pursuant to this Agreement without the prior written consent of HRI.

6. Neither party shall use the name of the other or any adaptation, abbreviation or derivative of any of them, whether oral or written, without the prior written permission of the other party. For the purposes of this paragraph "party" on the part of HRI shall include the State of New York and the NYS Department of Health.
7. It is understood and agreed that the services to be rendered by Consultant are unique and that Consultant shall not assign, transfer, subcontract or otherwise dispose of its rights or duties hereunder, in whole or in part, to any other person, firm or corporation, without the advance written consent of HRI.
8. The nature of the relationship which the Consultant shall have to HRI pursuant to this Agreement shall be that of an independent contractor. Under no circumstance shall the Consultant be considered an employee or agent of HRI. This Agreement shall not be construed to contain any authority, either expressed or implied, enabling the Consultant to incur any expense or perform any act on behalf of HRI.
9. Consultant is solely responsible for complying with all applicable laws and obtaining, at Consultant's sole expense, any and all licenses, permits, or authorizations necessary to perform services hereunder. Without limiting the generality of the foregoing, Consultant acknowledges and agrees, to the extent required by Article 15 of the New York State Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, that Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, Consultant agrees that neither it nor its authorized subcontractors, if any, shall, by reason of race, creed, color, disability, sex, or national origin:
(a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. Consultant is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all moneys due hereunder for a second or subsequent violation. **Consultant further agrees to the related terms and conditions set forth in Appendix "A", incorporated herein.**
10. This Agreement shall be void and no force and effect unless Consultant shall provide and maintain coverage during the life of this Agreement for the benefit of such employees as are required to be covered by the provisions of Workers' Compensation Law.
11. Unless otherwise agreed by HRI, Consultant shall maintain, or cause to be maintained, during the Term of this Agreement, insurance or self-insurance equivalents of the following types and amounts:
a) Commercial General Liability (CGL) with limits of insurance of not less than \$1,000,000 each occurrence and \$2,000,000 annual aggregate: b) HRI and the People of the State of New York shall be included as Additional Insureds on the Consultant's CGL, using ISO Additional Insured Endorsement CG 20 10 11 85 or an endorsement providing equivalent coverage to the Additional Insureds. The CGL insurance for the Additional Insureds shall be as broad as the coverage provided for the Named Insured Consultant. It shall apply as primary and non-contributing insurance before any insurance maintained by the Additional Insureds; c) other such insurance as may be specified

by HRI, depending on the project and services provided by Consultant.

12. Consultant shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance of the services under this Agreement (collectively, "Records"). The Records must be kept for the balance of the calendar year in which they are created and for six years thereafter. HRI shall have reasonable access to such Records as necessary for the purposes of inspection, audit, and copying. Records shall be maintained as Confidential Information and protected from public disclosure.
13. This Agreement, including all applicable attachments and appendices thereto, represents the entire Agreement and understanding of the parties hereto and no prior writings, conversations or representations of any nature shall be deemed to vary the provisions hereof. This Agreement may not be amended in any way except in writing, duly executed by both parties hereto.
14. HRI may terminate this Agreement with or without cause at any time by giving advance notice, when, in its sole discretion, HRI determines that it is in the best interests of HRI to do so, or as directed by the project sponsor. Such termination shall not affect any commitments which, in the judgment of HRI, have become legally binding prior to the effective date of termination. Upon termination of the Agreement by either party for any reason, Consultant shall immediately turn over to HRI any works in progress, materials, and deliverables (whether completed or not) related to the services performed up to the date of termination. It is understood and agreed, however, that in the event that Consultant is in default upon any of its obligations, hereunder, at the time of such termination, such right of termination on the part of HRI shall expressly be in addition to any other rights or remedies which HRI may have against Consultant by reason of such default.
15. Consultant acknowledges and agrees that, during the course of performing services for HRI, it may receive information of a confidential nature, whether marked or unmarked ("Confidential Information"). Consultant agrees to protect such Confidential Information with the same degree of care it uses to protect its own confidential information of similar nature and importance, but with no less than reasonable care. Consultant will not use Confidential Information for any purpose other than to facilitate the provision of services under this Agreement, and Consultant will not disclose Confidential Information to any third party without HRI's advance written consent.
16. Consultant represents and warrants that: a) it has the full right and authority to enter into and perform under this Agreement; b) it will perform the services set forth in Exhibit "A" in a workmanlike manner consistent with applicable industry practices; c) the services, work products, and deliverables provided by Consultant will conform to the specifications in Exhibit "A"; d) there is no pending or threatened claim or litigation that would have a material adverse impact on its ability to perform as required by this Agreement.
17. Consultant shall have no interest, financial or otherwise, direct or indirect, or engage in any business, transaction, or professional activity, that may create a conflict with the proper discharge of Consultant's duties under this Agreement. In the event any actual or potential conflict arises, Consultant agrees to notify HRI in writing within ten (10) days to allow HRI to evaluate any potential impact on Consultant's performance under this Agreement.
18. Consultant agrees to defend, indemnify and hold HRI, its agents and employees, the New York State Department of Health, and the People of the State of New York, harmless from any losses, claims, damages, expenses, and liabilities (including reasonable attorneys' fees arising out of: (i) any act or omission by Consultant in connection with the performance of services constituting negligence, willful misconduct, or fraud; (ii) the breach of the confidentiality obligations set forth herein; (iii) any claim for compensation or payment asserted by any employee or agent of Consultant; (iv) Consultant's failure to carry out Consultant's responsibilities under this Agreement;

- (v) any intellectual property infringement or misappropriation by Consultant in connection with the services provided under this Agreement.
19. Should any provision of this Agreement be proven to be invalid or legally ineffective, the overall validity of this Agreement shall not be affected. Unless the parties agree on an amended provision, the invalid provision shall be deemed to be replaced by a valid provision accomplishing as far as possible the purpose and intent of the parties at the date of the Agreement.
 20. The failure of HRI to assert a right hereunder or to insist on compliance with any term or condition of this Agreement shall not constitute a waiver of that right of HRI, or other rights of HRI under the Agreement, or excuse a subsequent failure to perform any such term or condition by Consultant.
 21. This Agreement shall be governed and construed in accordance with the laws of the State of New York. The jurisdictional venue for any legal proceedings involving this Agreement shall be in the State of New York. Disputes involving this Agreement may not be submitted to binding arbitration.
 22. In addition to the methods of process allowed by the State Civil Practice Law & Rules (CPLR), in any litigation arising under or with respect to this Agreement, Consultant hereby consents to the service of process upon it by registered or certified mail, return receipt requested, and will promptly notify HRI in writing in the event there is any change of address to which service of process can be made.
 23. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed signature page to the Agreement by facsimile transmission or PDF shall be as effective as delivery of a manually signed counterpart.
 24. Consultant agrees to abide by the terms and conditions of Appendix "A" attached hereto and made a part hereof, including the provisions required for federally funded projects, if applicable.

Appendix "A"

The parties to the attached Agreement further agree to be bound by the following terms, which are hereby made a part of said Agreement:

1. During the performance of the Agreement, the Consultant agrees as follows:
 - (a) Equal Opportunity, Non-Discrimination, and Notice of Labor Rights - Consultant acknowledges and agrees, whether or not required by Article 15 of the New York State Executive Law (also known as the Human Rights Law) or any other State or Federal statutory or constitutional non-discrimination or civil rights provisions, including but not limited to the American Disabilities Act, that Consultant will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, sexual orientation, gender identity, national origin, age, disability, pregnancy-related condition, military or veteran status, genetic predisposition or carrier status, marital or familial status, domestic violence victim status, individual's relationship or association with a member of a protected category or any other basis protected by state and federal law. Furthermore, Consultant agrees that neither it nor its authorized subcontractors, if any, shall, by reason of race, color, creed, religion, sex, sexual orientation, gender identity, national origin, age, disability, pregnancy-related condition, military or veteran status, genetic predisposition or carrier status, marital or familial status, domestic violence victim status, individual's relationship or association with a member of a protected category or any other basis protected by applicable state and federal law: (a) discriminate in hiring against any New York

State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Agreement. Consultant is subject to Section 220-e or Section 239 of the New York State Labor Law for work performed under this Agreement. Pursuant thereto, Consultant is subject to fines of \$50.00 per person per day for any violation of this provision, which may be deducted from any amounts payable under this Agreement, as well as possible termination of this Agreement and forfeiture of all moneys due hereunder for a second or subsequent violation. **Consultant shall, to the extent they apply, abide by (1) the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60- 741.5(a), which prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin and require affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status, or disability; (2) 29 CFR Part 471, Appendix A to Subpart A, and (3) E-Verify.**

- (b) EEO Reporting - If Consultant is required by federal regulations to file Employer Information Report EEO-1 (standard form 100) or Federal Contractor Veterans' Employment Report VETS-4212, Consultant certifies that it has done so or will file such reports in accordance with applicable instructions and will continue to file such reports unless or until no longer required by law or regulation.
- (c) System for Award Management (SAM) - Consultant is required to register with SAM.gov and maintain active status as stated in 2 CFR Subtitle A, Chapter 1, and Part 25 of Code of Federal Regulations. Consultant must maintain the accuracy/currency of the information in SAM at all times during which your entity has an active agreement with HRI. Additionally, your entity is required to review and update the information at least annually after the initial registration, and more frequently if required by changes in your information.

2. Assurances Required by DHHS--HHS (Where Applicable)

(a) Human Subjects, Derived Materials or Data

The Consultant and HRI both agree to abide by DHHS regulations concerning Human Subjects. The DHHS regulation, 45 CFR 46, provides a systematic means, based on established ethical principles, protecting the rights and welfare of individuals who may be exposed to the possibility of physical, psychological or social injury while they are participating as subjects in research, development or related activities. The regulation extends to the human fetus (either in utero or ex utero), the dead, organs, tissues, and body fluids, and graphic, written or recorded information derived from human sources.

The DHHS regulation requires institutional assurances, including the implementation of procedures for review, and the assignment of responsibilities for adequately protecting the rights and welfare of human subjects. Safeguarding these rights and welfare is, by DHHS policy, primarily the responsibility of the grantee. The Consultant is responsible for ensuring that the activity described or covered by this Agreement, and additional information relating to human subjects, derived materials or data are annually reviewed and approved by the Institutional Review Board of the Consultant. The Consultant and HRI agree to complete an HHS 596 form on an annual basis.

(b) Laboratory Animals

The Consultant agrees to abide by HHS policy requiring that laboratory animals not suffer unnecessary discomfort, pain or injury. The Consultant must assure HHS, in writing that it is committed to following the standards established by the Animal Welfare Acts and by the documents entitled "Principles for Use of Animals "and" Guide for the Care and Use of

Laboratory Animals."

(c) Recombinant DNA

The Consultant agrees to abide by the current HHS Guidelines for Research involving Recombinant DNA Molecules. All research involving recombinant DNA techniques that is supported by the Public Health Service must meet the requirements of these Guidelines, which were developed in response to the concerns of the scientific and lay communities about the possible effects of recombinant DNA research. Their purpose is to specify practices for the construction and handling of recombinant DNA molecules and organisms or viruses containing recombinant DNA. As defined by the Guidelines, "recombinant DNA" corresponds to: (1) molecules that are constructed outside living cells by joining natural or synthetic DNA segments to DNA molecules that can replicate in a living cell; or (2) DNA molecules that result from the replication of a molecule described in (1).

Several types of studies involving recombinant DNA are exempt from the Guidelines while others are prohibited by the Guidelines. For the remainder, the Consultant must establish and implement policies that provide for the safe conduct of the research in full conformity with the Guidelines. This responsibility includes establishing an institutional biosafety committee to review all recombinant DNA research to be conducted at or sponsored by the Consultant and to approve those projects that are in conformity with the Guidelines. For each approved project, a valid Memorandum of Understanding and Agreement (MUA) shall be prepared for submission when solicited by an appropriate HHS staff member. The MUA is considered approved after review and acceptance by ORDA and by the Consultant.

(d) Promoting Objectivity in Research

Neither Consultant nor anyone working on its behalf shall have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction, or professional activity that may create a conflict, or the appearance of a conflict, with the proper discharge of Consultant's duties under this Agreement or the conflict of interest policy of any agency providing federal funding under this Agreement. In the event any actual or potential conflict arises, Consultant agrees (i) to notify HRI in writing within ten (10) days to allow HRI to evaluate any potential or actual conflict, and, (ii) if required, eliminate the conflict or put in place an acceptable conflict management plan. Consultant agrees to comply with the DHHS/HHS regulatory requirements on Responsibility of Applicants for Promoting Objectivity in Research and financial conflicts of interest set forth in 42 CFR Part 50 Subpart F, as may be amended from time to time. Failure to disclose conflicts or provide information related thereto to HRI may be cause for termination of the Agreement.

(e) Additional Assurances

Should any additional DHHS-HHS regulations be promulgated that are applicable to this Agreement, the Consultant and HRI will review and agree to include them as part of this Agreement.

(f) National Labor Relations Act (Executive Order 13496)

Contractors that are not exempt from the National Labor Relations Act and have contracts, subcontracts or purchase orders subject to EO 13496 must satisfy the requirements of that Executive Order and its implementing regulations at 29 CFR Part 471 to be in compliance with the law.

The following provisions 3-6 are applicable to federally funded projects:

3. Clean Air Act and the Federal Water Pollution Control Act Compliance - If this Agreement is in excess of \$150,000, Consultant agrees to comply and to require that all subcontractors comply, where applicable, with all applicable standards, orders or regulations issued pursuant to the Clean

Air Act (42 U.S.C. § 7401-7671q.) and the Federal Water Pollution Control Act as amended (33 U.S.C. §1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

4. Notice as Required Under Public Law 103-333 - The Consultant is hereby notified of the following statement made by the Congress at Section 507(a) of Public Law 103-333 (The DHHS Appropriations Act, 1995, hereinafter the "Act"): It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.
5. Required Federal Certifications - Acceptance of this Agreement by Consultant constitutes certification by the Consultant of all of the following:
 - (a) The Consultant is not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.
 - (b) The Consultant is not delinquent on any Federal debt.
 - (c) The Consultant will comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352) requiring for Agreements of \$100,000 or more, that Consultant (i) will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352, and (ii) will disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
 - (d) The Consultant shall comply with the requirements of the Pro-Children Act of 1994 and shall not allow smoking within any portion of any indoor facility used for the provision of health, day care, early childhood development, education or library services to children under the age of eighteen (18) if the services are funded by a federal program, as this Agreement is, or if the services are provided in indoor facilities that are constructed, operated or maintained with such federal funds.
 - (e) The Consultant has established administrative policies regarding Scientific Misconduct as required by the Final Rule 42 CFR Part 93, Subpart A as published at the 54 Federal Register 32446, August 8, 1989.
 - (f) The Consultant maintains a drug free workplace in compliance with the Drug Free Workplace Act of 1988 as implemented in 45 CFR Part 76.
 - (g) If the Project Sponsor is either an agency of the Public Health Service or the National Science Foundation, the Consultant is in compliance with the rules governing Objectivity in Research as published in 60 Federal Register July 11, 1995.
6. Whistleblower Policy - Congress has enacted whistleblower protection statute 41 U.S.C. 4712, which applies to all employees working for contractors, grantees, subcontractors, and sub-grantees on federal grants and contracts. This program requires all grantees, sub-grantees and subcontractors to: inform their employees working on any federally funded award they are subject to the whistleblower rights and remedies of the program; inform their employee in writing of employee whistleblower protections under 41 U.S.C. 4712 in the predominant native language of the workforce; and Contractors and grantees will include such requirements in any agreement

made with a subcontractor or sub-grantee.

The statute (41 U.S.C. 4712) states that an “employee of a contractor, subcontractor, grantee [or sub-grantee] may not be discharged, demoted, or otherwise discriminated against as a reprisal for ‘whistleblowing’”. In addition, whistleblower protections cannot be waived by any agreement, policy, form, or condition of employment.

Whistleblowing is defined as making a disclosure “that the employee reasonably believes is evidence of any of the following: gross mismanagement of a federal contract or grant; a gross waste of federal funds; an abuse of authority relating to a federal contract or grant; a substantial and specific danger to public health or safety; or a violation of law, rule, or regulation related to a federal contract or grant (including the competition for, or negotiation of, a contract or grant). To qualify under the statute, the employee’s disclosure must be made to: a Member of Congress or a representative of a Congressional committee; or an Inspector General; or the Government Accountability Office; or a Federal employee responsible for contract or grant oversight or management at the relevant agency; or an authorized official of the Department of Justice or other law enforcement agency; or a court or grand jury; a management official or other employee of the contractor, subcontractor, grantee or sub-grantee who has the responsibility to investigate, discover or address misconduct.

The Consultant shall require that the language of all of the above certifications will be included in the award documents for all subawards under this Agreement (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

The Consultant agrees to notify HRI immediately if there is a change in its status relating to any of the above certifications.

7. The following pertains only to Consultants located in New York City or doing business in New York City: Contractor agrees it is compliant with NYC Local Law 96 (2018) Stop Sexual Harassment in NYC Act.